

Decision \_\_\_\_\_

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Establish Policies  
and Cost Recovery Mechanisms for Generation  
Procurement and Renewable Resource  
Development.

Rulemaking 01-10-024  
(Filed October 25, 2001)

**OPINION GRANTING INTERVENOR COMPENSATION**

This decision awards the Green Power Institute (GPI) \$41,826 in compensation for its contribution to Decision (D.) 03-06-071.

**Background**

The use of renewable energy resources is a major long-term goal of this Commission and the California Legislature and an important recovery element to the energy crisis. Senate Bill (SB) 1078, enacted in 2002, addressed renewable energy resources and established the California Renewable Portfolio Standard (RPS) program. The RPS calls for 20% of the state's energy use to be developed from renewable sources by the year 2017, with an increase in the procurement of renewable energy of at least one percent per year throughout the program length.

The Commission opened Rulemaking 01-10-024 to, in part, develop rules and procedures for the implementation of SB 1078. In D.03-06-071, we initiated the implementation of SB 1078 and the RPS program. Because of statutory deadlines, an expedited schedule was necessary in the RPS phase of the

proceeding, with workshops and evidentiary hearings all held within a three-month period. GPI actively participated in these workshops, hearings and the development of the RPS and substantially contributed to the outcome of D.03-06-071, as discussed below (under “Substantial Contribution”).

### **Requirements for Awards of Compensation**

The intervenor compensation program, enacted in Pub. Util. Code §§ 1801-1812, requires that the intervenor satisfy all of the following procedures and criteria to obtain an award:

1. The intervenor must be a customer or a participant representing consumers, customers, or subscribers of a utility subject to our jurisdiction. (§ 1802(b).)
2. The intervenor must satisfy certain procedural requirements including the filing of a sufficient notice of intent (NOI) to claim compensation within 30 days of the prehearing conference in special circumstances, at other appropriate times that we specify). (§ 1804(a).)
3. The intervenor must file and serve a request for a compensation award within 60 days of our final order or decision in a hearing or proceeding. (§ 1804(c).)
4. The intervenor must demonstrate significant financial hardship. (§ 1804(b)(1).)
5. The intervenor’s presentation must have made a substantial contribution to the proceeding, through the adoption, in whole or in part, of the intervenor’s contention or recommendations by a Commission order or decision. (§ 1803(a).)
6. The claimed fees and costs must not exceed the market rates paid to experts and advocates having comparable training and experience and offering similar services. (§ 1806.)

Each of these elements is discussed below.

### **Customer Status**

The question of customer status is normally addressed in a ruling by the assigned administrative law judge (ALJ), following receipt of the NOI. In this case, the ALJ did not rule on GPI's customer status and we therefore review the issue here.

GPI is a Category 3 customer for the purposes of determining eligibility for receiving intervenor compensation. It is a non-profit public-purpose research organization with more than 80 members who are residential electric utility customers. GPI is organized by its by-laws to represent these members by conducting research on environmental and renewable energy issues and applying the data to public policy programs.

### **Notice of Intent**

The prehearing conference for the RPS phase of the proceeding was held on February 18, 2003. GPI filed its NOI on March 28, 2003, along with a motion to accept a late filing. On August 12, 2003, ALJ Allen granted the motion for late filing. By this order, we confirm ALJ Allen's ruling and accept GPI's late-filed NOI.

### **Request For Compensation**

GPI filed its request for compensation on August 22, 2003, within the required 60 days from issuance of D.03-06-071.

### **Financial Hardship**

An intervenor seeking compensation must show that, without undue hardship, it cannot pay the reasonable costs of effective participation in the proceeding. In the case of groups or organizations, significant financial hardship is demonstrated by showing that the economic interest of individual members is small compared to the overall costs of effective participation. (Pub. Util. Code § 1802(g).) Such a finding is normally made in the ALJ's preliminary ruling as to

whether the customer will be eligible for compensation (§ 1804(b)). In this case, ALJ Allen advised GPI its hardship would be considered within the scope of the request for compensation.

GPI is a program within the Pacific Institute for Studies in Development, Environment, and Security (Pacific). Pacific is a non-profit, policy-oriented environmental research institution, founded in 1987 and located in Oakland and Berkeley, California. GPI has more than 80 members who are California residential customers and it represents these members by conducting research into environmental issues and applying the results in areas of public policy. We find the economic interests of the members are small in comparison to the costs of participation.

GPI was involved in the RPS program before becoming an intervenor in this proceeding, with financial support from the U.S. Department of Energy's National Renewable Energy Laboratory (NREL) and three other industry organizations. Funding from NREL was limited to \$30,000, and from the three industry organizations to \$5,000 each. These funds (\$45,000 total) were used by GPI for start-up costs and its initial work on RPS matters. GPI is now requesting compensation only for those expenses not reimbursed by NREL or other outside sources. GPI has shown that without undue financial hardship, it would not have been able to further participate in the proceeding once the outside funding ceased.

### **Substantial Contribution**

GPI has been an active and productive participant in the development of the RPS program and has substantially assisted the Commission in the making of D.03-06-071. GPI contributed to the development of the RPS program adopted by the Commission in the following six areas:

1. “All-in” costs and time-of-use (TOU) factors. GPI introduced improved TOU profiling methods for future use in the RPS program.
2. Renewable Energy Credits (REC’s). GPI played a key role in defining REC’s and the relationship of renewable and environmental attributes associated to a particular resource.
3. Compliance rules for annual procurement targets. GPI made contributions toward Finding of Fact 37, in D.03-06-071, in defining steps to be taken to reach the 20% goal.
4. Use of the Independent System Operator Tariff Amendment 42. This tariff contains schedules and cost valuations of intermittent renewable sources. GPI’s cross-examination assisted the Commission in adopting this tariff.
5. Unmet resource needs. The Commission’s determination on unmet long-term resource needs (Conclusion of Law 20 in D.03-06-071) reflects GPI cross-examination.
6. Setting and adjusting baselines. GPI participated in setting the baseline from which to measure progress toward achieving the RPS.

Considering these factors, we find that GPI made a substantial contribution to D.03-06-071.

### **Reasonableness of Requested Compensation**

GPI requests \$41,826 for its participation in this proceeding, as follows:

#### **Expert Witness/Consultation Fees**

Gregory Morris	2003	421 hours @ \$200/hour	\$84,200
		Request prep time 24 hours @ \$100/hour	\$ 2,400
		Business expenses	\$ 226
		Total:	<u>\$86,826</u>

#### **Funding From Other Sources Deducted**

National Renewable Energy Lab	\$30,000
California Biomass Alliance	\$ 5,000
American Wind Energy Association	\$ 5,000
Geothermal Energy Association	<u>\$ 5,000</u>

Total:                    (\$45,000)  
                              **\$41,826**

The components of this request must constitute reasonable fees and costs when compared to market rates for similar services from comparably qualified persons. Gregory Morris is the Director of GPI and its energy policy expert. He was GPI's sole participant in this proceeding, acting as a policy witness and as a participating party at the hearings. He has over 20 years experience in the fields of energy and the environment. Morris has been actively involved in electric restructuring in California during the last 10 years, both as a facilitator for this Commission's Renewables Working Group in 1996, and as a consultant to the California Energy Commission's Renewables Program Committee. Morris holds a PhD in Energy and Resources from the University of California and other degrees in Natural Science and Biochemistry.

GPI requests \$200/hour for work performed by Morris in 2003. No previous rates are available for GPI or Morris as this is its first request for intervenor compensation. In D.03-02-017, the Commission awarded James Weil of Aglet Consumer Alliance \$220/hour. Weil holds a position similar to Morris, but has more direct experience in cases before the Commission. We find the rate of \$200/hour for Morris to be reasonable. This rate does not exceed market rates for experts with similar education and experience in similar cases before the Commission.

### **Award**

We award GPI \$41,826. This calculation is based on the hourly rates described above and reflects a deduction of \$45,000 for funds received by GPI from outside sources. Consistent with previous Commission decisions, we will order that, after November 5, 2003 (the 75<sup>th</sup> day after GPI filed its compensation request), interest be paid on GPI's award amount at the rate earned on prime,

three-month commercial paper, as reported in Federal Reserve Statistical Release H.15. Interest will continue on this award until the utilities make full payment.

We remind GPI, and all intervenors, that Commission staff may audit the records related to this award. Intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation.

The contributions of GPI to this proceeding have statewide implications. We direct all three larger electric utilities, Pacific Gas and Electric Company (PG&E), Southern California Edison Company (Edison), and San Diego Gas and Electric Company (SDG&E), to share proportionally in the payment based on their percentage of total retail sales of electricity (measured by jurisdictional revenues) in 2003, which is the year most costs were incurred.

#### **Waiver of Comment Period**

This is an intervenor compensation matter. Accordingly, as provided by Rule 77.7(f)(6) of our Rules of Practice and Procedure, we waive the otherwise applicable 30-day comment period for this decision.

#### **Assignment of Proceeding**

Michael R. Peevey is the Assigned Commissioner. Peter V. Allen and Christine M. Walwyn are the assigned ALJs in this proceeding.

#### **Findings of Fact**

1. GPI represents consumers, customers, or subscribers of PG&E, Edison, and SDG&E, all utilities regulated by the Commission.
2. GPI filed its NOI to claim compensation on March 28, 2003, and its request for compensation on August 22, 2003.
3. The individual economic interests of GPI's members are small in comparison to the costs incurred in effectively participating in these proceedings.

4. GPI made a substantial contribution to D.03-06-071.
5. GPI requested hourly rates that are reasonable when compared to the market rates for persons with similar training and experience. GPI's request for expenses is also reasonable.
6. The total of fees and expenses claimed by GPI is \$86,826.
7. GPI received \$45,000 in funding from other sources for its participation in this proceeding, and it properly reduced its request for intervenor compensation by this amount.
8. The net request by GPI for its reasonable fees and expenses is \$41,826.

### **Conclusions of Law**

1. GPI has fulfilled the requirements of Pub. Util. Code §§ 1801-1812, which govern awards of intervenor compensation, and is entitled to intervenor compensation for its claimed fees and expenses incurred in making substantial contributions to D.03-06-071.
2. Public review and comment on today's decision should be waived pursuant to Pub. Util. Code § 311(g)(3) and Rule 77.7(f)(6) of the Commission's Rules of Practice and Procedure.
3. Today's decision should be made effective immediately to ensure prompt payment of the award to GPI.



**O R D E R**

**IT IS ORDERED** that:

1. The Green Power Institute (GPI) is awarded \$41,826 as compensation for its substantial contributions to Decision 03-06-071.
2. Within 30 days of the effective date of this decision, Pacific Gas and Electric Company (PG&E), Southern California Edison Company (Edison), and San Diego Gas & Electric Company (SDG&E) shall each pay GPI the respective utility's share of GPI's total award. The shares shall be computed on the basis of each utility's percentage of the total retail sales of electricity (measured by jurisdictional revenues) in 2003 for all three utilities.
3. PG&E, Edison and SDG&E shall also pay interest on the award beginning November 5, 2003, at the rate earned on prime, three-month commercial paper as reported in Federal Reserve Statistical Release H.15, and continuing until full payment is made.
4. The comment period for today's decision is waived.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.

**Compensation Decision Summary Information**

<b>Compensation Decision:</b>	D
<b>Contribution Decisions:</b>	D0306071
<b>Proceeding:</b>	R0110024
<b>Author:</b>	ALJ Allen
<b>Payers:</b>	Southern California Edison Company Pacific Gas and Electric Company San Diego Gas & Electric Company

**Intervenor Information**

<b>Intervenor</b>	<b>Claim Date</b>	<b>Amount Requested</b>	<b>Amount Awarded</b>	<b>Reason</b>
The Green Power Institute	8/22/2003	\$41,826	\$41,826	

**Advocate Information**

<b>First Name</b>	<b>Last Name</b>	<b>Type</b>	<b>Intervenor</b>	<b>Hourly Fee Requested</b>	<b>Year Hourly Fee Requested</b>	<b>Hourly Fee Adopted</b>
Gregory	Morris	Policy Expert /Director	The Green Power Institute	\$200	2003	\$200